(15)

**HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR**

**DIVISION BENCH**

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**CORAM : HON'BLE SHRI S.R. NAYAK, CJ**
**& HON'BLE SHRI D.R. DESHMUKH, J.**

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**Misc. Appeal No. 441 of 2006.**

**APPELLANTS:**

1. Smt. Padmini Chandrakar widow of late Durga Prasad Chandrakar, aged about 38 years,
2. Akash Chandrakar, s/o late Durga Prasad Chandrakar, aged about 17 years,
3. Ku. Tejeshwita Chandrakar, D/o late Durga Prasad Chandrakar, aged about 12 years,
4. Deepesh Kumar, S/o late Durga Prasad Chandrakar, aged about 10 years,

   Appellants no.2 to 4 minor through guardian mother Smt. Padmini (Appellant no.1)
5. Smt. Mantora Bai Chandrakar, wife of Jagat Ram Chandrakar, aged about 65 years, all R/o village Basuladabari, thana Bagbahara, Distt. Mahasamund (C.G.)

**VERSUS**

**RESPONDENTS:**

1. Manikram, S/o Ram Bharosa, aged about 31 years, R/o village and post Komakhan, P.S. Bagbahara, Distt. Mahasamund (C.G.)
2. Sunil Kumar Jain S/o Kesari Chand Jain, aged about 37 years, R/o village and post Komakhan, P.S. Bagbahara, Distt. Mahasamund, C.G.
3. The Branch Manager, Oriental Insurance Company Limited, Mahaveer Gaushala, Maudahapara, Distt. Raipur, (C.G.)

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Present: Shri Sunil Sahu, learned counsel for the appellants.

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**ORAL ORDER**
**(Passed on 19th June, 2006)**

The following oral order of the Court was passed by

**S.R. NAYAK, CJ .**

The dependents of the deceased, not being satisfied with the compensation awarded by the MACT, have preferred this appeal for more compensation. It was contended by learned counsel for the appellants that the deceased was earning yearly income of Rs.2,20,000/- from agricultural as well as contract work together, whereas, the MACT unjustly taking the income of the deceased at Rs.4,000/- per month, assessed the loss of dependency. There is no merit in the above contention. The wife of the deceased who was examined as P.W.1 has stated that the deceased had owned 10 acres of land and he was deriving total income of Rs.25,000/- per annum from the agricultural land. She further stated that even after her husband's death she was deriving income from agriculture. P.W. 1 did not state that the deceased was also doing contract work. The claimants utterly failed to place any substantive evidence before the MACT to prove that the actual income of the deceased was Rs.2,20,000/- from agricultural as well as contract work per annum. In the absence of any substantive legal evidence, the MACT taking into account totality of facts and circumstances of the case took the income of the deceased at Rs.4,000/- per month for assessing loss of dependency. In that view of the matter, there is absolutely no ground for us to interfere with the impugned award. In our considered opinion, what has been awarded by the MACT is a just and reasonable compensation envisaged under the Motor Vehicles Act, 1988. The appeal is, therefore, dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Sd/-
Chief Justice